IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 17461 of 2004

Between:

1 Dr. D. Mohammed Hussain, S/o D. Dastagiri,
R/o Andhra Bank Road, Banaganpalle, Kurnool district.
2 D. Yousuf, S/o D. Dastagiri
R/o Andhra Bank Road, Banaganpalle, Kurnool district.
3 D. Subhan S/o D. Dastagiri
R/o Andhra Bank Road, Banaganpalle, Kurnool district

..... PETITIONERS

AND

1 The Banaganapalle Grampanchayat, represented by its Panchayat Secretary, Banaganapalle Village and Mandal, Kurnool district.
2 Sri B.C. Raja Reddy, Sarpanch, Banaganapalle Grampanchayat, Kurnool District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more one in the nature of Writ of Mandamus declaring the action of the respondents in trying to demolish the steps of the building bearing Nos. 5/132 and 5/133 situated on Nandyal Road in Block No.5 of Banaganapalle Town and Mandal, Kurnool District without following the due procedure contemplated under the A.P. Panchayath Raj Act of 1994 and Rules made there under as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents not to demolish the steps of the building bearing Nos. 5/132 and 5/133 situated on Nandyal Road in Block No.5 of Banaganapalle Town and Mandal, Kurnool District belonging to the petitioners.

For the Petitioners: MR.M.SUBBA REDDY, Advocate

For the Respondent No.1: SMT.JYOTHI ESWAR GOGINENI, SC FOR Banaganapalle Gram Panchayat.

For the Respondent No.2: MR.E.AJAY REDDY, Advocate.

The Court at the stage of admission made the following :

ORDER:

Heard the learned counsel for the petitioners and the learned Standing Counsel for the first respondent-Gram Panchayat.

The grievance of the petitioners in this writ petition is that the first respondent-Gram Panchayat, without issuing any notice to them, is trying to demolish the steps of their building bearing House Nos.5/132 and 5/133 situated on Nandyal Road in Block No.5 of Banaganapalle Town and Mandal of Kurnool District, which were constructed in accordance with the plan sanctioned by the Gram Panchayat.

When the matter came up for admission on 28-9-2004, this Court passed the following order:

> "It is represented by the leaned counsel for the petitioners that the respondents have removed the steps which were said to have been constructed in violation of the sanctioned permission.
>
> In view of the same, both the parties have to maintain status quo for a period of one week and the petitioners shall not re-erect the said steps."

When the matter came up today for hearing, the learned Standing Counsel appearing for the first respondent-Gram Panchayat produced a record of Banaganapalle Gram Panchayat. The said record reveals that a notice in Roc. No.108 of 2004, dated 23-9-2004 was issued to the petitioners alleging that they are constructing steps to their building, by encroaching into panchayat road, contrary to the approved plan, and directing the petitioners not to make any constructions contrary to the plan, otherwise, it is informed, action would be initiated as per Clause No.13 of the approved plan No.69 of 2004, dated 21-8-2004 and also in accordance with the provisions of Sections 96 and 98 of A.P. Panchayat Raj Act, 1994. It is also revealed from the said record that when the said notice was taken for service, the petitioners refused to receive it. Then, in pursuance of the directions of the Pancnayat Secretary, the Sanitary Inspector of the Gram Panchayat affixed a copy of the said notice to the door of the petitioners' house in the presence of two witnesses and the staff of the Gram Panchayat by conducting a panchanama to that effect.

Accordingly, it is revealed from the record, the said notice was served on the petitioners.

Despite service of the said notice, the petitioners have not given any reply. Inasmuch as the first respondent-Gram panchayat, before taking steps to demolish the steps constructed on the pancnayat road contrary to the approved plan, issued notice to the petitioners, no exception can be taken to the action of the Gram Panchayat in removing the steps constructed in violation of the sanctioned plan.

In the circumstances, the writ petition has no merit and is accordingly dismissed at the stage of admission. No costs.

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N.V. RAMANA, J

Date: 23-11-2004

Svv

To

1 The Panchayat Secretary, the Banganapalle Grampanchayat,
Banaganapalle Village and Mandal, Kurnool district.

2 Sri B.C. raja Reddy, Sarpanch, Banaganapalle Gram Panchayat,
Kurnool District.

3 Two CD copies.